

House Bill 421

By: Representatives Buckner of the 130th, Crawford of the 127th, Benfield of the 85th, Epps of the 128th, and Jamieson of the 28th

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to ad valorem tax treatment of bona fide conservation use property, so as to change certain provisions relating to acreage limits; to change certain provisions relating to eligible property owners; to provide for certain conditions that shall not constitute a breach of covenant; to provide for a contingent effective date; to provide for contingent automatic repeal; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to ad valorem tax treatment of bona fide conservation use property, is amended by revising the introductory language of paragraph (1) of subsection (a) as follows:

"(1) ~~Not more than 2,000 acres of tangible real~~ Real property of a single owner, without any limitation on acreage, the primary purpose of which property is any good faith production, including but not limited to subsistence farming or commercial production, from or on the land of agricultural products or timber, subject to the following qualifications:"

SECTION 2.

Said Code section is further amended by revising subparagraph (a)(1)(C) as follows:

"(C) Except as otherwise provided in division (vii) of this subparagraph, such property must be owned by:

- (i) One or more natural or naturalized citizens;
- (ii) An estate of which the devisees or heirs are one or more natural or naturalized citizens;
- (iii) A trust of which the beneficiaries are one or more natural or naturalized citizens;

(iv) A family owned farm entity, such as a family corporation, a family partnership, a family general partnership, a family limited partnership, a family limited corporation, or a family limited liability company, all of the interest of which is owned by one or more natural or naturalized citizens related to each other by blood or marriage within the fourth degree of civil reckoning, except that, solely with respect to a family limited partnership, a corporation, limited partnership, limited corporation, or limited liability company may serve as a general partner of the family limited partnership and hold no more than a 5 percent interest in such family limited partnership, an estate of which the devisees or heirs are one or more natural or naturalized citizens, or a trust of which the beneficiaries are one or more natural or naturalized citizens and which family owned farm entity derived 80 percent or more of its gross income from bona fide conservation uses, including earnings on investments directly related to past or future bona fide conservation uses, within this state within the year immediately preceding the year in which eligibility is sought; provided, however, that in the case of a newly formed family farm entity, an estimate of the income of such entity may be used to determine its eligibility;

(iv.1) Any person engaged in the production of timber;

(v) A bona fide nonprofit conservation organization designated under Section 501(c)(3) of the Internal Revenue Code;

(vi) A bona fide club organized for pleasure, recreation, and other nonprofitable purposes pursuant to Section 501(c)(7) of the Internal Revenue Code; or

(vii) In the case of constructed storm-water wetlands, any person may own such property;"

SECTION 3.

Said Code section is further amended by revising paragraphs (2) and (3) of subsection (p) as follows:

"(2) Allowing all or part of the property subject to the covenant to lie fallow or idle for purposes of any land conservation program, for purposes of any federal agricultural assistance program, or for other agricultural or timber management purposes;

(3) Allowing all or part of the property subject to the covenant to lie fallow or idle due to economic or financial hardship or natural disaster if the owner notifies the board of tax assessors on or before the last day for filing a tax return in the county where the land lying fallow or idle is located and if such owner does not allow the land to lie fallow or idle for more than two years of any five-year period;"

SECTION 4.

This Act shall become effective on January 1, 2009, only if an amendment to the Constitution to remove an acreage restriction on bona fide conservation use property for purposes of current use taxation is ratified by the voters at the November, 2008, general election. If such an amendment is not so ratified, this Act shall not become effective and shall stand repealed on January 1, 2009.

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.